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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,020	07/21/2003	Michael Seul	PARSE-C4	5081
7590	06/27/2006		EXAMINER DO, PENSEE T	
Bioarray Solutions 35 Technology Drive Warren, NJ 07059			ART UNIT 1641	PAPER NUMBER

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/624,020	SEUL ET AL.	
	Examiner	Art Unit	
	Pensee T. Do	1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 47,49,50 and 55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 47, 49, 50 and 55 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 7, 2006 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 47, 49, 50 and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 47 is indefinite because it is unclear of what the spatial relationship between the planar substrate and the chip is. Is the chip disposed on the substrate or vice versa?

Claim 47 is also unclear if the hydrophilic regions are part of the chip or the chip is disposed on the hydrophilic regions in the recitation "wherein the hydrophilic regions are designed to accommodate the chip".

Claim 50 is indefinite. Claim 50 recites "different types of particles" which lacks antecedent support. Claim 47 fails to recite "different types of particles".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 47, 49, 50 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rava et al. (US 5,874,219) in view of Shivashankar et al. (US 6,139,831).

Rava teaches a chip plate comprising a plurality of test wells (planar substrate), each test well (hydrophilic region) having a biological chip having a molecular probe array. (see col. 1, lines 62-65). The test wells are separated by a hydrophobic region. (see col. 4, lines 24-30; fig. 3; col. 8, lines 35-46). Regarding claim 49, test wells comprise hydrophilic regions because they can accommodate aqueous sample, and are within the perimeter of the indentations of the planar surface of the substrate (plate), said indentations (wells) being surrounded by the hydrophobic regions. Regarding claim 55, Rava teaches that the chip plate is made of silicon or modified silicon. (see col. 4, lines 10-12; col. 9, lines 41-45).

However, Rava fails to teach that the chip has an array of particles deposited thereon, wherein a biological reagent is bound to the particles and that different types of particles having different biological reagent bound thereto.

Shivashanka teaches grafting an array of particles coated with a molecule such as a biomolecule, on to localized positions of semiconductor substrate (biochip). (see

col. 18, lines 35-41). Shivashanka also teaches different types of particles (first and second colloidal particles) coated with different molecules (first and second DNA sequences). (see col. 18, lines 3-30).

It would have been obvious to one of ordinary skills in the art to immobilize particles, having biomolecules or different types of particles having different biomolecules immobilized thereon, as taught by Shivashanka, onto the chip/substrate as taught by Rava since both teach coating biochip with biomolecules because particles enable separation of specific biomolecules within a microfluidic chamber (wells) as taught by Shivashanka (see col. 18, lines 40-41). Particles such as gold colloidal are also used as light scattering labels for detection purpose.

Response to Arguments

Applicant's arguments with respect to claims 47, 49, 50 and 55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pensee T. Do whose telephone number is 571-272-0819. The examiner can normally be reached on Monday-Friday, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1641

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pensee T. Do
Patent Examiner
June 19, 2006

Long Le
LONG V. LE 06/21/06
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600